

**STATE OF MICHIGAN**  
**DEPARTMENT OF CONSUMER & INDUSTRY SERVICES**  
**BEFORE THE STATE BOUNDARY COMMISSION**

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**In the matter of:**

**Boundary Commission**  
**Docket #98-AP-9**

**The proposed annexation of  
territory in Fillmore Township  
to the City of Holland.**

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**SUMMARY OF PROCEEDINGS, FINDINGS OF FACT AND CONCLUSIONS**

The territory situated in Fillmore Township and petitioned for annexation to the City of Holland is described as follows:

Part of Sections 9, 10, 15, 16, 17, 18, Town 4 North, Range 15 West, Fillmore Township, Allegan County, Michigan being described as: Beginning at the East 1/4 corner of said Section 15; thence South 00 degrees 26 minutes 36 seconds East 479.54 feet along the East line of said Section 15; thence North 88 degrees 18 minutes 44 seconds West 834.73 feet; thence North 35 degrees 35 minutes 06 seconds West 701.37 feet along the centerline of M-40; thence 631.48 feet along the centerline of M-40 and along the arc of a curve to the right with a radius of 34377.48 feet through a central angle of 01 degrees 03 minutes 09 seconds the long chord of which bears North 35 degrees 03 minutes 31 seconds West 631.47 feet; thence North 88 degrees 19 minutes 14 seconds West 1059.95 feet; thence South 00 degrees 39 minutes 46 seconds East 585.25 feet along the North and South 1/4 line of said Section 15; thence North 88 degrees 18 minutes 44 seconds West 2648.32 feet along the East and West 1/4 line of said Section 15 to the West 1/4 corner of said Section 15; thence North 89 degrees 31 minutes 11 seconds West 1328.51 feet along the East and West 1/4 line of said Section 16; thence North 00 degrees 45 minutes 48 seconds West 1727.79 feet along the West line of the East 1/2 of the Northeast 1/4 of said section 16; thence 1373.89 feet along the South line of Interstate 196 and along the arc of a curve to the right with a radius of 3922.72 feet through a central angle of 20 degrees 04 minutes 02 seconds the long chord of which bears South 75 degrees 01 minutes 02 seconds West 1366.88 feet; thence South 00 degrees 37 minutes 45 seconds East 35.58 feet along the North and South 1/4 line of said Section 16; thence North 89 degrees 39 minutes 58 seconds West 1209.33 feet along the South line of Interstate I-196; thence South 05 degrees 55 minutes 59 seconds East 1332.62 feet along the West line of the CSX Railroad right of way; thence North 89 degrees 31 minutes 11 seconds West 1570.17 feet along the East and West 1/4 line of said Section 16 to the West 1/4 corner of said Section 16; thence South 89 degrees 54 minutes 53 seconds West 578.77 feet along the East and West 1/4 line of said section 17; thence North 0 degrees 08 minutes 47 seconds

West 754.64 feet along the East line of the West 36 acres of the South 46 acres of the Northeast 1/4 of said Section 17; thence South 89 degrees 54 minutes 53 seconds West 300.00 feet along the North line of the South 46 acres of the Northeast 1/4 of said Section 17; thence South 00 degrees 08 minutes 47 seconds East 754.64 feet along the West line of the East 300 feet of the West 36 acres of the South 46 acres of the Northeast 1/4 of said Section 17; thence South 89 degrees 54 minutes 53 seconds West 1778.03 feet along the East and West 1/4 line of said Section 17 to the Center of said Section 17; thence South 89 degrees 54 minutes 53 seconds West 2657.15 feet along the East and West 1/4 line of said Section 17 to the West 1/4 corner of said Section 17; thence North 89 degrees 19 minutes 47 seconds West 1325.75 feet along the East and West 1/4 line of said Section 18; thence North 00 degrees 05 minutes 36 seconds West 1261.43 feet along the West line of the Southeast 1/4 of the Northeast 1/4 of said Section 18; thence 982.91 feet along the South line of Interstate 196 and along the arc of a curve to the right with a radius of 11356.16 feet through a central angle of 04 degrees 57 minutes 33 seconds the long chord of which bears North 87 degrees 25 minutes 35 seconds East 982.60 feet; thence North 89 degrees 54 minutes 21 seconds East 343.56 feet along the South line of Interstate 196; thence North 00 degrees 06 minutes 36 seconds West 300.00 feet along the West line of Section 17; thence North 89 degrees 54 minutes 21 seconds East 5306.29 feet along the North line of Interstate 196; thence North 00 degrees 22 minutes 51 seconds West 1019.04 feet along the East line of said section 17 to the Northeast corner of said Section 17; thence South 89 degrees 48 minutes 47 seconds East 1819.67 feet along the North line of said Section 16; thence North 00 degrees 43 minutes 28 seconds West 99.00 feet; thence South 89 degrees 48 minutes 47 seconds East 165.00 feet; thence North 00 degrees 43 minutes 28 seconds West 759.00 feet; thence South 89 degrees 48 minutes 47 seconds East 660.00 feet; thence South 00 degrees 43 minutes 28 seconds East 858.00 feet along the North and South 1/4 line of said Section 9 to the South 1/4 corner of said Section 9; thence South 89 degrees 52 minutes 03 seconds East 1983.36 feet along the South line of said Section 9; thence along the Northerly right of way line of Interstate 196 the following nine courses: thence North 00 degrees 07 minutes 57 seconds East 33.00 feet; thence North 72 degrees 51 minutes 34 seconds East 218.90 feet; thence North 49 degrees 36 minutes 07 seconds East 479.12 feet; thence North 37 degrees 26 minutes 15 seconds East 415.64 feet; thence North 22 degrees 52 minutes 11 seconds East 415.64 feet; thence North 10 degrees 42 minutes 19 seconds East 903.25 feet; thence North 54 degrees 44 minutes 52 seconds East 119.54 feet; thence 289.05 feet along the arc of a curve to the right with a radius of 68834.90 feet through a central angle of 00 degrees 14 minutes 26 seconds the long chord of which bears North 35 degrees 23 minutes 28 seconds West 289.05 feet; thence North 35 degrees 16 minutes 14 seconds West 66.64 feet; thence North 54 degrees 43 minutes 46 seconds East 160.00 feet; thence South 35 degrees 16 minutes 14 seconds East 66.64 feet; thence 782.14 feet along the arc of a curve to the left with a radius of 68674.90 feet through a central angle of 00 degrees 39 minutes 09 seconds the long chord of which bears South 35 degrees 35 minutes 49 seconds East 782.13 feet; thence South 35 degrees 55 minutes 24 seconds East 1470.33 feet; thence along the Southerly right of way line of Interstate 196 the following seven courses: thence North 09 degrees 04 minutes 29 seconds East 169.71 feet; thence North 54 degrees 04 minutes 22

seconds East 185.81 feet; thence North 14 degrees 25 minutes 06 seconds East 890.45 feet; thence North 29 degrees 46 minutes 28 seconds East 426.72 feet; thence North 49 degrees 36 minutes 07 seconds East 376.13 feet; thence North 40 degrees 10 minutes 23 seconds East 103.77 feet; thence North 49 degrees 36 minutes 07 seconds East 204.88 feet; thence South 88 degrees 08 minutes 31 seconds East 969.14 feet along the East and West 1/4 line of Section 10; thence South 00 degrees 34 minutes 51 seconds East 1312.40 feet along the East line of the Northwest 1/4 of the Southeast 1/4 of said Section 10; thence South 88 degrees 13 minutes 43 seconds East 895.29 feet along North line of the Southeast 1/4 of the Southeast 1/4 of said Section 10; thence South 00 degrees 38 minutes 01 seconds East 200.18 feet; thence South 88 degrees 13 minutes 43 seconds East 435.60 feet; thence South 00 degrees 38 minutes 01 seconds East 1110.27 feet along the East line of said Section 10 to the Southeast corner of said Section 10; thence South 00 degrees 28 minutes 41 seconds East 2677.94 feet along the East line of said Section 15 to the East 1/4 corner of said Section 15 and the point of ending.

### **SUMMARY OF PROCEEDINGS**

- A. On September 25, 1998, a petition was filed requesting the annexation of certain territory in Fillmore Township to the City of Holland.
- B. On January 14, 1999, an adjudicative meeting was held to determine legal sufficiency with Allegan County Boundary Commissioners serving. The petition was found to be legally sufficient pursuant to Public Act 191 of 1968, as amended, and Public Act 279 of 1909, as amended. The Commission expanded the area to be considered for annexation.
- C. Boundary Commission staff determined pursuant to Section 5 of Public Act 191 of 1968, as amended, that Ottawa County Boundary Commissioners should serve on and be voting members of the Commission. On April 15, 1999, an adjudicative meeting was held to determine legal sufficiency with Ottawa County Boundary Commissioners serving. The petition was found to be legally sufficient pursuant to Public Act 191 of 1968, as amended, and Public Act 279 of 1909, as amended, and the Commission expanded the area to be considered for annexation.
- D. On April 22, 1999, a public hearing was held to receive testimony given pursuant to Public Act 191 of 1968, as amended. Notice of said hearing was published and mailed pursuant to Section 8 of Public Act 191 of 1968, as amended.
- E. On September 9, 1999, an adjudicative meeting was held to consider the docket, and the Commission voted to approve the annexation as petitioned and expanded. The territory approved for annexation to the City of Holland, situated in Fillmore Township, is described as follows:

Part of Sections 9, 10, 15, 16, 17, 18, Town 4 North, Range 15 West, Fillmore Township, Allegan County, Michigan being described as: Beginning at the East 1/4 corner of said Section 15; thence South 00 degrees 26 minutes 36 seconds East 479.54 feet along the East line of said Section 15; thence North 88 degrees 18 minutes 44 seconds West 834.73 feet; thence North 35 degrees 35 minutes 06 seconds West 701.37 feet along the centerline of M-40; thence 631.48 feet along the centerline of M-40 and along the arc of a curve to the right with a radius of 34377.48 feet through a central angle of 01 degrees 03 minutes 09 seconds the long chord of which bears North 35 degrees 03 minutes 31 seconds West 631.47 feet; thence North 88 degrees 19 minutes 14 seconds West 1059.95 feet; thence South 00 degrees 39 minutes 46 seconds East 585.25 feet along the North and South 1/4 line of said Section 15; thence North 88 degrees 18 minutes 44 seconds West 2648.32 feet along the East and West 1/4 line of said Section 15 to the West 1/4 corner of said Section 15; thence North 89 degrees 31 minutes 11 seconds West 1328.51 feet along the East and West 1/4 line of said Section 16; thence North 00 degrees 45 minutes 48 seconds West 1727.79 feet along the West line of the East 1/2 of the Northeast 1/4 of said section 16; thence 1373.89 feet along the South line of Interstate 196 and along the arc of a curve to the right with a radius of 3922.72 feet through a central angle of 20 degrees 04 minutes 02 seconds the long chord of which bears South 75 degrees 01 minutes 02 seconds West 1366.88 feet; thence South 00 degrees 37 minutes 45 seconds East 35.58 feet along the North and South 1/4 line of said Section 16; thence North 89 degrees 39 minutes 58 seconds West 1209.33 feet along the South line of Interstate I-196; thence South 05 degrees 55 minutes 59 seconds East 1332.62 feet along the West line of the CSX Railroad right of way; thence North 89 degrees 31 minutes 11 seconds West 1570.17 feet along the East and West 1/4 line of said Section 16 to the West 1/4 corner of said Section 16; thence South 89 degrees 54 minutes 53 seconds West 578.77 feet along the East and West 1/4 line of said section 17; thence North 00 degrees 08 minutes 47 seconds West 754.64 feet along the East line of the West 36 acres of the South 46 acres of the Northeast 1/4 of said Section 17; thence South 89 degrees 54 minutes 53 seconds West 300.00 feet along the North line of the South 46 acres of the Northeast 1/4 of said Section 17; thence South 00 degrees 08 minutes 47 seconds East 754.64 feet along the West line of the East 300 feet of the West 36 acres of the South 46 acres of the Northeast 1/4 of said Section 17; thence South 89 degrees 54 minutes 53 seconds West 1778.03 feet along the East and West 1/4 line of said Section 17 to the Center of said Section 17; thence South 89 degrees 54 minutes 53 seconds West 2657.15 feet along the East and West 1/4 line of said Section 17 to the West 1/4 corner of said Section 17; thence North 89 degrees 19 minutes 47 seconds West 1325.75 feet along the East and West 1/4 line of said Section 18; thence North 00 degrees 05 minutes 36 seconds West 1261.43 feet along the West line of the Southeast 1/4 of the Northeast 1/4 of said Section 18; thence 982.91 feet along the South line of Interstate 196 and along the arc of a curve to the right with a radius of 11356.16 feet through a central angle of 04 degrees 57 minutes 33 seconds the long chord of which bears North 87 degrees 25 minutes 35 seconds East 982.60 feet; thence North 89 degrees 54 minutes 21 seconds East 343.56 feet along the South line of Interstate 196; thence North 00 degrees 06 minutes 36 seconds West 300.00 feet along the West line of Section 17; thence North 89 degrees 54 minutes 21 seconds East 5306.29 feet along the North line of

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## INFORMATION FROM THE RECORD

1. The record states:
  - The petitioned area is 1,018 acres, 866 acres are privately owned.
  - The petitioners are comprised of 33 property owners.
  - The area that is not privately owned includes highway, road, and railroad right-of-way.
  - The Commission expanded the area to include all the right-of-way at the I-196 and M-40 interchange.
  - Land uses in the area proposed for annexation include: commercial, industrial, single family homes, vacant, and agricultural.
2. The Township reported that the proposed area contains approximately:
  - 500 acres zoned A-2 Agricultural
  - 50 acres zoned R-1 Residential
  - 210 acres zoned C-2 Commercial
  - 100 acres zoned I-1 Industrial.
3. The petitioners reported:
  - They requested annexation because it is the most expedient and cost-effective way to obtain public water, sewer, full-time police and fire protection, and full-time land use planning services.
  - Some petitioners have an urgent need for public water service so their businesses can maintain and grow, some can no longer farm their land economically, some want to develop their property, and some want better quality water.
  - The petitioners are in urgent need of adequate water, both in quality and quantity.
  - They currently have poor quality well water and many experience septic tank problems and failures.
  - Lack of water has limited the ability of many business owners in the area to meet the needs of their current customers. Some have put plans to expand their businesses on hold.
  - Public water and other services are available just across the City boundary line.
  - No other cost-effective water source has been identified yet, and the petitioners believe the Township is not able to address their water needs in the foreseeable future.
  - Because of the location along the M-40 corridor at the I-196 interchange, and proximity to the airport, development will take place in the area. The question is how this growth and development will occur.
  - The quality of development would be better in the City due to public services and development controls.
  - The Holland water system is the most rational, cost effective solution.
4. The Township reported:
  - Annexation is not necessary to obtain services and will cut off any potential for the

Township's future development.

- The Township has been actively searching for sources of water and will be able to provide water in the future.
- The Township should be given the opportunity to carry out the plans that are already in motion. The Commission should not use such a drastic remedy as annexation at a time when a sanitary sewer system is being constructed and test wells have been completed for water services.
- The majority of the petitioners are not in immediate need of water. The recent request for water service is due to speculation that the area can be developed.
- The area proposed for annexation is largely agricultural. Only a few parcels need services.
- If growth and development of the area is taken out of Township control it could result in uncontrolled growth and urban sprawl.
- Loss of this area would cause the Township to lose approximately 12% of its present property tax base.
- If the annexation is approved, it will add to the problem of irregular boundaries.

5. The City reported:

- Annexation is necessary for industrial and commercial development and will permit master planning for the south entrance into the City. With their financial resources, relationship with the Michigan Department Of Transportation and their planning resources the City can help the petitioners improve that corridor.
- Water and sewer service can be provided to the proposed area by March 1, 2000.
- The annexation will permit immediate industrial and commercial development at a more economic cost due to the existing utility layout.
- Part of the reason this annexation petition is so large is because there has been a pent up need for boundary adjustments in this area.
- Annexation will not cause urban sprawl. Large minimum lot size is one cause of urban sprawl. Holland maintains that its zoning administration and review will mitigate against urban sprawl if development occurs under the jurisdiction of the City.

6. The Township reported:

- It does not provide public water service.
- The nearest source is the City of Holland, who refuses to sell water to the Township.
- Water will be provided to the area as soon as a source becomes available.
- It will provide water from a municipal source or from its own system.

7. The City reported:

- Water mains to serve the proposed area are approximately 2,500 feet away from the east end and approximately 1,000 feet away from the west end of the proposed area.
- Water service is currently being expanded in the area immediately adjacent to the proposed area.
- Due to City policy, water is not available to the proposed area.

8. The record states an Act 425 of 1984 Agreement, that included provisions for the City to supply water services to the proposed area, was approved by City and Township officials in 1997, but was rejected by the Township residents by a vote of 326 to 335.
9. The record states:
  - The City and the Township have entered into a wastewater facilities joint operating agreement.
  - The Township has sold \$1.4 million worth of bonds to install sewer along M-40 and the 144<sup>th</sup> Street area.
  - Special assessments have been made.
  - Construction began the first week of May, 1999.
10. The Township reported:
  - Sewer will be available October 1, 1999, for commercial areas along M-40 and 144<sup>th</sup> Ave.
  - It has purchased equity in the City's sewer system.
  - It currently provides sewer to 5% the proposed area.
  - 97% of the planned expansion district is within the proposed area.

#### **THE COMMISSION FINDS THAT**

1. The property owners requested the annexation to obtain water and other services from the city.
2. The record shows that the City has the capacity and capability to provide water to the area by March 2000.
3. The area is under significant development pressure. Expectations for urban development in the area are reasonable. There are businesses in the area that need water now.
4. The area proposed for annexation receives some of the desired governmental services, but the record shows that the township is not able to provide water to the area by a date certain.
5. The proposed annexation reflects the best of the available alternatives in providing municipal services to the area and its occupants in the most efficient and economical way.
6. Some property owners in the area indicated they did not wish to be annexed, but because of development pressures it appears that the owners of that land would request annexation in the relatively near future.
7. The topographical conditions do not preclude in any substantial way the proposed annexation.



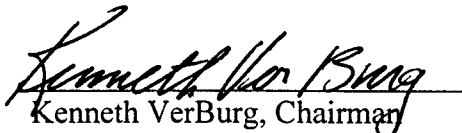
8. The area and the residents of the area constitute a small proportion of the township residents and will not have a substantial effect on the overall township population.
9. The proposed annexation does not conflict with any natural boundaries and drainage basins.
- 10.. The proposed annexation will not result in a large enough reduction of tax base or revenues to limit the Township's ability to continue to provide its current level of services.
11. The proposed annexation will not have a deleterious effect on the broader community.
12. Development of the area proposed for annexation under the jurisdiction of the City is not inconsistent with present adjacent or nearby land use patterns.
13. The proposed annexation will result in an increase of taxes for the affected parcels but the increase is relatively consistent with the services that the parcels and occupants will receive.
14. The City appears to have the fiscal capacity to accommodate the additional demand for services to the proposed area.
15. The Township has outstanding bonds for sewer construction in the area proposed for annexation. The Home Rule Cities Act, section 9, requires the Commission to determine and order an equitable division of assets and liabilities which relate to the bonds and other evidences of indebtedness.
16. The Township is directed to file any claims regarding division of assets and liabilities, subject to division in accordance with the statute, within 15 days from the date the Director of the Department of Consumer and Industry Services signs the order. The Commission will allow the Township and the City 30 days from the date the Director of the Department of Consumer and Industry Services signs the order, to submit an agreement on the division of assets and liabilities relating to the bonds and other evidences of indebtedness.
17. If the Township and City do not come to an agreement, they shall submit their individual recommendations to the Commission within 45 days from the date the Director of the Department of Consumer and Industry Services signs the order. Each party will then have 15 days to submit their rebuttal.

#### **IN CONCLUSION, THE COMMISSION FINDS THAT**

1. The Commission has considered the record of this docket in accordance with the criteria stipulated under Section 9 of Public Act 191 of 1968, as amended.
2. On September 9, 1999, State Boundary Commissioners VerBurg, Rutledge and Walker and Ottawa County Boundary Commissioners Hill and Kramer held an adjudicative meeting

during which:

- Commissioners VerBurg, Rutledge, *and* Walker voted to recommend annexation of the subject territory as petitioned and expanded.
  - Commissioner Hill voted to deny the annexation due to concern that urbanization will spread into rural areas of the Township and because the Township should be allowed further opportunity to provide water to the proposed area.
  - Commissioner Kramer voted to deny the annexation.
  - The staff was directed to prepare draft Findings of Fact and Conclusions.
3. On November 10, 1999, Commissioners VerBurg, Walker, Hill and Kramer held an adjudicative meeting during which
- the draft Findings of Fact and Conclusions was reviewed, and
  - the Commission voted to adopt the Findings of Fact and Conclusions, as amended, and to recommend that the Director of the Department of Consumer and Industry Services sign the Order.

  
Kenneth VerBurg, Chairman  
State Boundary Commission

  
Date

STATE OF MICHIGAN  
DEPARTMENT OF CONSUMER & INDUSTRY SERVICES  
BEFORE THE STATE BOUNDARY COMMISSION

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**ORDER**

In the matter of:

Boundary Commission  
Docket #98-AP-9

The proposed annexation of  
territory in Fillmore Township  
to the City of Holland.

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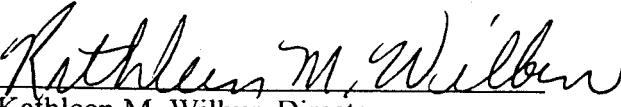
IT IS ORDERED THAT the described subject territory in Fillmore Township, Allegan County, be annexed to the City of Holland.

IT IS FURTHER ORDERED THAT these Findings of Fact and Conclusions and Order shall be effective 30 days after the date the Director of the Department of Consumer and Industry Services signs the Order.

IT IS FURTHER ORDERED THAT Fillmore Township shall file any claims with the State Boundary Commission regarding division of assets and liabilities that are subject to division in accordance with the Home Rule Cities Act, Act 279 of the Public Acts of 1909, as amended, within 15 days from the date the Director of the Department of Consumer and Industry Services signs the Order.

IT IS FURTHER ORDERED THAT if Fillmore Township and the City of Holland do not submit an agreement on the division of assets and liabilities within 30 days after the date the Director of the Department of Consumer and Industry Services signs the Order, they shall submit their individual recommendations to the Commission within 45 days from the date the Director of the Department of Consumer and Industry Services signs the Order. Each party will then have 15 days to submit their rebuttal to the Commission.

IT IS FURTHER ORDERED THAT the State Boundary Commission shall transmit a certified copy of the Findings of Fact and Conclusions and Order to the petitioner, the Fillmore Township Clerk, the City of Holland Clerk, the Allegan County Clerk, and the Secretary of State.

  
Kathleen M. Wilbur, Director  
Department of Consumer and Industry Services

Date: November 29, 1999